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*Attorneys for Defendant Barry C. Honig*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

CREIGHTON TAKATA, Individually and on  
behalf of all others similarly situated,

Plaintiff,

vs.

RIOT BLOCKCHAIN, INC. F/K/A, BIOPTIX,  
INC., JOHN O'ROURKE, and JEFFREY  
MCGONEGAL,

Defendants.

Civil Action No.: 18-2293(FLW)(TJB)

**NOTICE OF MOTION TO DISMISS  
PLAINTIFF'S SECOND  
CONSOLIDATED AMENDED CLASS  
ACTION COMPLAINT**

MOTION RETURN DATE: MARCH 15, 2021

*ORAL ARGUMENT REQUESTED*

**PLEASE TAKE NOTICE** that on March 15, 2021, or as soon as the Court deems appropriate, Defendant Barry C. Honig ("Mr. Honig") will appear before the Honorable Freda L. Wolfson, U.S.D.J., at the United States District Court for the District of New Jersey, 402 State Street, Courtroom 5E, Trenton, New Jersey, and will move this Court, pursuant to Fed. R. Civ. P. 12(b)(6) and 9(b), and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4,

*et seq.*, for an Order dismissing Lead Plaintiff's Consolidated Second Amended Class Action Complaint for Violations of the Federal Securities Law, with prejudice.

**PLEASE TAKE FURTHER NOTICE THAT** Mr. Honig shall rely upon the accompanying Declaration of Robert D. Weber with exhibits, Request for Judicial Notice, Memorandum of Law in Support, and all papers submitted herewith.

**PLEASE TAKE FURTHER NOTICE THAT** a proposed form of Order is also submitted for the Court's consideration.

Dated: February 8, 2021

Respectfully submitted,

SHEPPARD, MULLIN, RICHTER  
& HAMPTON LLP

By: /s/ Tyler E. Baker

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